



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

DEC 22 2011

Timothy Reed
Chief Financial Officer
ENPAC, LLC
34355 Vokes Drive
Eastlake, OH 44095

Reference No.: 11-0259

Dear Mr. Reed:

This is in response to your October 18, 2011 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You ask several questions pertaining to the M number marking on a packaging, training of subcontractors, and design qualification testing of a packaging. Your questions are paraphrased and answered as follows:

Q1. Should an M number assigned to your company be used for packagings manufactured by a subcontractor?

A1. Another company cannot use an M number assigned to your company. In accordance with §178.503(a)(8), if a subcontractor manufactures your company's packagings, they must mark the packaging with their name and address, if permitted for the particular type of packaging, or they must mark the packaging with an M number issued to them.

Q2. Who is responsible for the required hazmat training of a subcontractor's employees?

A2. In accordance with §172.702(a), the hazmat employer is responsible for ensuring that each of its hazmat employees is trained. However, §172.702(c) provides flexibility on who can provide the training. The training may be provided by your company, the subcontractor, or by some other public or private source.

Q3. Should the subcontractor obtain an M number and should the packagings be marked with the subcontractor's M number?

A3. See A1.

Q4. Is design qualification testing of the packaging required when a subcontractor begins production?

A4. Section 178.601(c)(1) defines “design qualification testing” as testing for each new or different packaging at the start of production of that packaging. The use of a subcontractor to manufacture an existing packaging does not render the packaging “new” or “different.” Therefore, if the packaging has already passed design qualification testing, a subcontractor is not required to conduct the tests at the start of production of the same packaging. This does not, however, relieve the responsibility for conducting the periodic retesting required by §178.601(e) of the packagings manufactured by the subcontractor.

Q5. Is design qualification testing of the packaging required for each change of subcontractors?

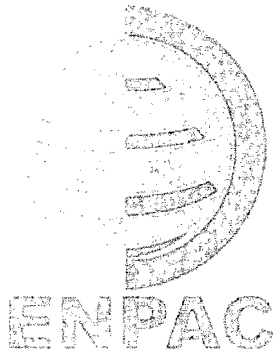
A5. See A4.

I hope this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Delmer Billings". The signature is written in a cursive style with a large initial "D".

Delmer Billings
Senior Regulatory Advisor
Standards and Rulemaking Division



ENPAC, L.L.C.

Babich
§ 178.3
§ 178.503
Marking of Packages
11-0259

October 18, 2011

US Dept of Transportation
PHMSA Office of Hazardous Materials Standards
Attn: PHH-10 East Building
1200 New Jersey Avenue, Southeast
Washington, D.C. 20590-0001

To Whom It May Concern:

ENPAC would like to have a formal interpretation made regarding the proper M number to use on the marking of a product. ENPAC is planning on outsourcing one of its products to a subcontractor to manufacture. ENPAC will continue to own the mold/tooling used to manufacture the product and will train the manufacturer on how to manufacture the products. The subcontractor will purchase the materials needed and provide the value added (labor). Testing of the product will be made by an independent testing facility. The following questions need to be interpreted:

1. Should the packaging use an M number assigned to ENPAC for the subcontractor's address since ENPAC owns the mold?
2. Who is responsible for the hazmat training of the subcontractor's employees? Is it based on the M number used on the packaging?
3. Should the subcontractor obtain an M number and should the packaging be marked using the subcontractor's M-number since the labor is provided by the subcontractor?
4. Is design qualification testing required for the change to a subcontractor even though the same resin will be used?
5. Is design qualification testing required for each change of subcontractors even though the same resin will be used?

If you have any questions, call me at your convenience at (440) 975-0070, x334 or email me at timr@enpac.com. Thank you for your assistance in this matter.

Sincerely,

Timothy Reed
Chief Financial Officer
ENPAC, LLC